

**NEVADA STATE BOARD OF MEDICAL EXAMINERS**

9600 Gateway Drive

Reno, NV 89521

Aury Nagy, M.D.

Board President



Edward O. Cousineau, J.D.

Executive Director

**\* \* \* MINUTES \* \* \***

**LEGISLATIVE SUBCOMMITTEE MEETING**

Held in the Conference Room at the Offices of the  
Nevada State Board of Medical Examiners  
9600 Gateway Drive, Reno, Nevada 89521

and teleconferenced to

The Conference Room at the Offices of the  
Nevada State Board of Medical Examiners  
325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119

***FRIDAY, APRIL 7, 2023– 12:00 p.m.***

***Subcommittee Members Present***

Victor M. Muro, M.D.

Ms. Maggie Arias-Petrel

Col. Eric D. Wade, USAF (Ret.)

Nicola (Nick) M. Spirtos, M.D., F.A.C.O.G.

***Subcommittee Members Absent***

Aury Nagy, M.D.

*Staff/Others Present*

Sarah A. Bradley, J.D., MBA, *Deputy Executive Director*  
Donya Jenkins, *Chief of Finance and Human Relations*  
Deonne E. Contine, *General Counsel*  
Mercedes Fuentes, *Legal Assistant*  
Traci Bonner, *Legal Assistant*  
Kory Linn, *Chief of Licensing*  
Tom Clark, *Lobbyist*  
Keith Lee, *Lobbyist*  
Zoe Houghton, *Lobbyist*  
Henna Rasul, *Senior Deputy Attorney General*

Agenda Item 1

**CALL TO ORDER AND ANNOUNCEMENTS**

- Roll Call/Quorum

The meeting was called to order by Ms. Bradley at 12:07 p.m.

Ms. Bradley took roll call, and all Subcommittee members were present, with the exception of Aury Nagy, M.D. Ms. Bradley announced there was a quorum.

Agenda Item 2

**PUBLIC COMMENT**

Dr. Muro asked whether there was anyone in attendance who would like to present public comment.

Dr. Weldon Havins was present in the Las Vegas Board Office, however he provided no public comment.

Ms. Bradley stated that members of the public were in attendance in the Reno office, however there was no public comment.

Agenda Item 3

**REVIEW AND DISCUSSION OF BILLS**

Dr. Muro indicated that, like in the previous meeting, he would like Ms. Bradley to state a synopsis of each bill and then the Subcommittee members, after discussion, will move to take a position on the bill either in support, in opposition, or take a neutral or no position on each bill.

a. AB188

Ms. Bradley stated that proposed bill AB188 Clarifies the protocols for using “individualized investigational treatment” for patients with life-threatening or severely debilitating diseases or conditions, however physicians must still obtain informed consent from the patient.

Dr. Muro confirmed that “terminal” has been struck through in the language of the bill. Ms. Bradley confirmed that the language now states life threatening or debilitating disease or condition, so it reads broader.

Dr. Muro also asked if there was any FDA approval for the investigational drugs. Ms. Bradley confirmed that it would be amended to NRS 630.3735 and that these would not be FDA approved and can be done if the patient is aware that it is not an FDA approved treatment and that there is no other treatment available.

Dr. Spirtos stated that he was not sure what problem the bill intended to solve and questioned if there was already something in place for this.

Dr. Muro stated that there is a process for safety and believes that this weakens it. Dr. Spirtos added that currently people can have access to investigative drugs if they sign a consent form and that this adds that the patient would have to complete a phase one trial and believes that there is too much leeway for misuse. Dr. Muro added that this could open avenues for potential misuse or abuse. Col. Wade agreed with Dr. Muro’s comments.

Dr. Muro moved to oppose proposed bill AB188, Col. Wade seconded the motion, and it passed with all Subcommittee members voting in favor of the motion.

b. AB234

Ms. Bradley stated that proposed bill AB234 provides that medical services in a facility licensed pursuant to NRS Chapter 449 cannot deny services based on whether the person has received a COVID-19 vaccine. It also specifically amends NRS 630 to say that a physician may not deny services based on whether the person has received the COVID-19 vaccines.

Dr. Muro asked if that would include all facilities regardless of treatment or services. Ms. Bradley clarified that the bill does not talk about types of services and that it just states that the physician shall not refuse care based solely on the vaccination status of the patient.

Ms. Arias-Petrel asked if patients were vaccinated or not vaccinated based on religious beliefs would that affect their treatment. Ms. Bradley clarified that this bill only states that they cannot refuse service based on vaccination status, not to say that they could not deny based on other reasons such as if the treatment is not appropriate, but that is all this bill covers.

Dr. Muro stated this doesn’t add to anything to what is already in place and believes this is almost like a solution looking for a problem. Dr. Spirtos agreed with Dr. Muro’s comments and added that it may lead to refusal of service if there is another virus or variant and vaccination of such. Dr. Muro stated that most providers are already sensitive to religious beliefs.

Dr. Spirtos moved to take oppose proposed bill AB234, Dr. Muro seconded the motion, and it passed, with all Subcommittee members voting in favor of the motion.

c. AB363

Ms. Bradley explained that proposed bill AB363 changes review of criminal history background for applicants for all Title 54 boards, including this Board. It allows an applicant to file a petition

for judicial review if their application for license is denied based on criminal history, which currently cannot be done. This would make major change in the law because it has been well-settled that obtaining a license is a privilege and not a right, and there is not an ability to appeal denials to the district court. The Board also could not ask about arrests that did not result in conviction, such as diversion, deferral, dismissed charges, or convictions that have been sealed, expunged, or annulled, or juvenile convictions, or convictions that are for misdemeanors, gross misdemeanors, or felonies that are not “potentially disqualifying offenses.” For something to be a potentially disqualifying event there must be clear and convincing evidence that the offense “directly and specifically relates to the duties and responsibilities of the occupation or profession,” no rehabilitation, and there is direct and substantial risk to public safety if this person was licensed. Ms. Bradley added that she believes that the Board already has very few denials based on an applicant’s criminal history. The burden is on the Board to prove denial by clear and convincing evidence and this is a higher burden than the burden to prove a violation of the law in a disciplinary hearing.

Dr. Muro stated that he believes he understands the intent of the bill however that the Board has always been fair regarding the licensure of an applicant with previous criminal history and it is not an automatic denial of licensure and rarely happens. He added that the Board should have transparency from the licensee for the Board to determine if it will issue a license, again because a license is a privilege not a right. He further added that he believes this bill will open doors in the Boards hearing process that he currently believes is robust and fair and will affect the safety of the citizens of the state. Dr. Spirtos agreed with Dr. Muros’ comments and added that he believes this bill is not looking out for the public. Col. Wade agreed that a license is a privilege not a right.

Dr. Spirtos asked if there was any upside for the public if this bill passes. Ms. Bradley answered that there is a benefit to the individuals that get licensed if they had an arrest with no conviction because those would now not be reported on license applications. Dr. Muro asked if there is any benefit other than the applicant. Ms. Bradley answered no, patients expect to not be treated by someone who is a sex offender or felon. Ms. Arias-Petrel agreed with Ms. Bradley’s comments.

Col. Wade moved to oppose AB363, Dr. Spirtos seconded the motion, and it passed, with all Subcommittee members voting in favor of the motion.

d. AB393

Ms. Bradley stated that proposed bill AB393 creates a “Doctors for Nevada Program” and reimburses educational debt for physicians who relocate to practice in Nevada and meet the requirements of the regulations that would be created pursuant to this bill. This bill would also provide stipends to residents who meet the requirements of the regulations that would be created and are unable to get a residency because one is not available. They also must commit to working in Nevada for two years after their residency is completed.

Dr. Spirtos voiced that he believes that there is a verbiage issue with “unable to obtain residency” and perhaps it should state fellowship rather than residency. Dr. Muro agreed with Dr. Spirtos’ comments and added that there should be more training for specialized care.

Ms. Bradley stated that the Board lobbyist can pass on language to change the residency and fellowship portion of the bill.

Dr. Muro moved to support AB393, Ms. Arias-Petrel seconded the motion, and it passed, with all Subcommittee members voting in favor of the motion.

e. AB402

Ms. Bradley explained that proposed bill AB402 provides that the Board, and all other Title 54 regulatory bodies, would have to submit a report to the Governor and the Director of LCB each odd-numbered January regarding the number of states that do not require licensure of a profession that the Board licenses and the number of states that allow for reciprocity for that profession. If the licensed profession is licensed in less than 26 states, then Board must include a plan to phase out licensure for that profession. Ms. Bradley added that the Board licenses four types of providers and that perfusionist are licensed in less than 26 states, so our Board would have to make a report regarding that licensure category.

Dr. Muro asked how many states have perfusionist as licensed professionals. Ms. Bradley stated that there are 18 states that license perfusionists and she believes we currently have 95 licensed perfusionists in our state.

Ms. Arias-Petrel stated that it is confusing between reciprocity and getting a license through endorsement. Ms. Bradley answered that is a confusing issue and there are currently endorsement provisions in the Board's chapters and NAC regulations that allow endorsements.

Dr. Spirtos moved to take a neutral position on proposed bill AB402, Dr. Muro seconded the motion, and it passed with all Subcommittee members voting in favor of the motion.

f. AB442

Ms. Bradley stated that proposed bill AB442 would require the Board to report felony complaints to law enforcement such as sexual assault. Ms. Bradley voiced concern that part of this bill now mandates summary suspension if there are two or more complaints which are only allegations. Ms. Bradley added that the Subcommittee does not have to take a position right now but wanted to bring it to the attention of the Subcommittee but that the language of this bill is being worked on and that she has expressed these concerns to the Board's lobbyists.

Dr. Muro stated that two allegations should not be a trigger for a mandatory suspension and he was concerned that this violates due process.

Col. Wade added that this bill needs better language as it is too broad and makes it almost compulsory for the Board to suspend a physician based on an allegation. Ms. Arias-Petrel agreed with Col. Wade's comments.

Dr. Muro stated he believes that the Subcommittee should table it and put it on a future agenda to see if there have been language additions and then take a position.

Dr. Muro moved to table proposed bill AB442 to a future agenda for action, Ms. Arias-Petrel seconded the motion, and it passed with all Subcommittee members voting in favor of the motion.

g. SB131 and h. SB302

Ms. Bradley provided that she would be addressing both item “g” and “h” together, which are proposed bills SB131 and SB302. SB131 states that the Board could not deny licensure solely based on the fact that the applicant provided or assisted in reproductive healthcare services and would include any services related to pregnancy, contraception, termination of pregnancy or any other care found by a competent medical professional to be appropriate based upon the wishes of the patient, in another state, even if unlawful in that state and potentially disciplined in that state, as long as the conduct would have been lawful in Nevada. Ms. Bradley stated that SB302 provides that the Board could not deny licensure solely based on the fact that the applicant provided or assisted in gender affirming services in another state, even if unlawful in that state, and potentially disciplined, as long as the conduct would have been lawful in Nevada.

Dr. Spirtos asked if there needed to be a bill to state it formally. Ms. Bradley answered that she believes it is necessary because it amends NRS 622 and it just makes it clear if there is disciplinary action in another state that is lawful in Nevada that the Board will not pursue discipline.

Dr. Muro added that he believes this bill will provide clarity and that it will protect the will of the citizens.

Dr. Spirtos moved to support SB131 and SB302, Ms. Arias-Petrel seconded the motion, and it passed with all Subcommittee members voting in favor of the motion.

i. SB309

Ms. Bradley stated that proposed bill SB309 establishes the crime of fertility fraud. This is defined as using human genetic material other than the material consented to by the patient to aid in assisted reproduction and it could be the doctor’s own genetic material or other genetic material. Ms. Bradley added that she believes this has come up because there have been situations where physicians have used their own material and believes this is just making it clear that it has to be material that is consented to by the patient and the physician has to be honest about information related to donor material. This also creates a civil tort related to fertility fraud.

Dr. Spirtos voiced concern about what happens when a physician retrieves material from a hospital that was part of their program and does the liability in that case fall on the physician or the program. Ms. Bradley answered that an accident or mislabel is different than knowingly and willfully. Dr. Muro agreed with Ms. Bradley and stated that there is a difference between knowingly and willfully.

Dr. Muro moved to support SB309, Dr. Spirtos seconded the motion, and it passed, with all Subcommittee members voting in favor of the motion.

j. SB431

Ms. Bradley explained that proposed bill SB431 is a very long bill but that she will be highlighting the areas that would affect the Board. This proposed bill creates additional cabinet positions in the Governor’s Office and one of them would be the Secretary of Commerce and Administration

and the Board would be subject to working with them. This bill also creates the Office of Nevada Boards, Commissions, and Councils Standards within the Department of Business and Industry and the Board would be subject to that as well. That office would create centralized administration, uniform standards for investigations, licensing, discipline, uniform standards for internal controls, uniform standards for legal representation, a consistent set of structural standards for boards and commissions, transparency and consumer protection, and efficacy and efficiency. Ms. Bradley's concern would be that the Office of Nevada Boards, Commissions, and Councils Standards would take over boards, and though it does not say that it is abolishing our Board, that office they would oversee our Board and we may have additional reporting requirements.

Ms. Arias-Petrel asked if doctors would be involved in the new office. Ms. Bradley indicated that she did not think that there would be and she believes that it would be individuals appointed to work in that office.

Dr. Muro voiced that there are a lot of ambiguities in the bill as written and that the minimal impact to the Board would be that it is a reporting line without any monies to follow and that a more severe impact would be monies to support the overall department coming out of the medical board and additionally being told how operate.

Ms. Arias-Petrel voiced that she believes there is not benefit to the Board being overseen by this and it would just create another layer of the process that is unnecessary and also the funding part is concerning that the Board would have to fund the office and she does not support it.

Ms. Arias-Petrel moved to oppose SB431, Dr. Spirtos seconded the motion, and it passed with all Subcommittee members voting in favor of the motion.

Ms. Bradley wanted to clarify why the Subcommittee was opposed to the bill to ensure that she appropriately stated these concerns if she testifies in opposition on the bill on behalf of the Board at the Legislature. It was discussed among the Subcommittee members that this bill did not support protection of members of the public because if it passes there is a potential that the ultimate oversight of the practice of medicine would be removed from the individuals that understand it and are impacted in it and possible creating a disconnection.

#### Agenda Item 4

#### PUBLIC COMMENT

Dr. Muro asked whether there was anyone in attendance who would like to present public comment. There was no public comment received at the Reno Office.

Dr. Havins, in the southern office, wanted to make note that he agreed with the opposition of AB234 because it adds protection of the physician if patient has a condition that causes greater risk of passing or some other condition. Dr. Havins also added in regards to SB431 the he is on the Governor's Office of Economic Development and believes that the purpose of this bill only effects title 54 boards, which are all of the healthcare boards, and to address the concerns that there is such a difference in the operation of the boards and the amount of information is available to the public and it his opinion that the medical board would serve as a model to other boards. Dr. Havins added that he agrees with the

Subcommittees' opposition to the bill because it appears that this bill does applies to all boards, but that he could see the issue that this bill was trying to resolve.

There was no further public comment.

Agenda Item 5

ADJOURNMENT

Col. Wade moved to adjourn the meeting, Dr. Muro seconded the motion, and it passed with all committee members voting in favor of the motion.

The meeting was adjourned at 1:27 p.m.

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DRAFT